

Comment to: RM-10521

Date: August 16, 2002

Commenter: Michael Joens, 4 Sunnycrest Ave., Beverly, MA 01915

I urge the commission to deny the proposed rulemaking on the following grounds:

1. The reasoning for the proposal is without basis. Mr. Trahos uses the fact that Region 1 transceivers are already used illegally in the United States as the prime justification for legalizing them. Rather, such misuse should be grounds for appropriate enforcement action.

To prevent misuse of European FRS-like transceivers, appropriate action could include information of incoming tourists and travelers that the use of such radios is illegal. This could be done at the port of origin or in the arrival area of US ports.

2. Permitting the use of any foreign transceivers that are not FCC type accepted will provide a method for bypassing FCC regulations in other areas. FRS and CB radios require FCC type approval in spite of their unlicensed operation. Once the FCC gives in to a proposal to use non-type approved equipment, it will become virtually impossible to uphold the requirement for type approval. It would become beneficial for US manufacturers to either produce off-shore and import or export and re-import equipment to bypass type-approval requirements.
3. Foreign visitors who wish to communicate with FRS-type transceivers can purchase such transceivers in the US at low cost. Type-approved radios are readily available. Compared to the cost of transportation, the price of a pair of FRS transceivers is negligible.
4. There are long-term consequences to permitting unlicensed operation in the amateur radio bands. The use of unlicensed FRS-type radios only adds to the list of illegal operations (e.g CB'ers and taxis on the 10m band). Ultimately, any illegal use itself may be used as a justification for the use itself, and a proposal to legalize it, as evidenced it RM-10521.
5. There is no obstacle for a foreign visitor to obtain an amateur radio license prior to using a PMR-446 type transceiver in the US. There are two paths to accomplish this. One can either obtain a license in the country of residence and use it in the US under the CEPT agreement, or obtain a Technician class or higher license in the US upon arrival.
6. Visitors who hold a valid amateur radio license may use non-type approved equipment on the amateur bands legally. Any properly licensed and conscientious amateur radio operator will be aware of the frequency limits in the country he is traveling to and will observe applicable band plans.
7. Operation of foreign FRS-style transceivers can severely impact amateur operations in various ways:
 - a. The casual PMR446 user would not know if he is transmitting on a repeater input frequency, both because he is unaware of their existence

- and because there would be no reciprocal signal received on the FRS-style receiver.
- b. FCC (and international) amateur radio regulations prohibiting indecent and obscene language do not apply to FRS or CB. If adopted, foreign visitors would be allowed to freely violate rules applicable to the amateur service, which in turn damages the amateur radio service.
 - c. Since a foreign user of FRS-style radios would not be able to identify due to lack of a call sign, tracing interference in the mostly self-regulating amateur service would be greatly diminished, if not impossible.
8. Permission to use privileges reserved for the amateur service to non-licensed visitors will open the door to future unlicensed use by anyone. The same reasoning that Mr. Trahos uses to justify his proposal can easily be used to propose removal of the requirement to obtain an amateur radio license altogether.
9. If Mr. Trahos' proposal were adopted, a new legislative path would be created: Initiate or observe an illegal use of spectrum and then issue a proposal to legalize it. This would set a bad precedent for achieving one's goals and should not be condoned by the commission.
10. The list of qualifications provided by Mr. Trahos is largely irrelevant and its purpose questionable. On the other hand, the type of circular logic ("Since the illegal use is already taking place, and enforcement action is lacking, it should be legalized") disqualifies the petitioner.
11. Lastly, the proposal, if adopted, would create an inequality between US citizens and lawful permanent residents on one hand, and foreigners on the other. In fact, foreigners would be given privileges that are not available to US citizens. A challenge of the constitutionality of such regulation is likely.

In conclusion, I strongly oppose Mr. Trahos' proposal to permit the unlicensed use of foreign non-type approved transceivers on amateur radio frequencies.

Sincerely,

Michael Joens, K1JE